

Message Text

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C O N F I D E N T I A L CARACAS 0208

E.O. 11652: GDS
TAGS: ENRG VE
SUBJECT: OIL COMPANY PROBLEMS: MEETING WITH MINISTER OF FINANCE

REF: (A) STATE 306831, (B) CARACAS 12363

1. SUMMARY: FINANCE MINISTER SILVA LUONGO INITIATED A MEETING WITH THE AMBASSADOR TO REVIEW THE STATUS OF THE COMPTROLLER'S CLAIM AND THE OTHER BACK TAX CLAIMS PENDING AGAINST THE OIL COMPANIES. HE SAID MINISTRY OFFICIALS WERE WORKING ON A POSSIBLE SETTLEMENT OF THE BACK TAX CLAIMS AND HAD OFFERED ASSISTANCE TO THE TAX COURTS IN THEIR REVIEW OF THE COMPTROLLER'S CLAIM. THE AMBASSADOR EXPLAINED THE USG'S SERIOUS CONCERN THAT THESE ISSUES ARE STILL PENDING TWO YEARS AFTER NATIONALIZATION. HE SUGGESTED THE POSSIBILITY OF THE EXECUTIVE BRANCH OF THE GOV FORMALLY SUBMITTING TO THE COURTS AN OPINION ON THESE CLAIMS, BUT THE MINISTER REPLIED THIS WAS NOT POSSIBLE UNDER VENEZUELAN LAW. END SUMMARY.

2. THE AMBASSADOR MET WITH MINISTER OF FINANCE LUIS JOSE SILVA LUONGO JANUARY 6 FOR A BRIEFING ON THE CURRENT STATUS OF THE COMPTROLLER GENERAL'S TAX CLAIMS AND THE OTHER BACK TAX CLAIMS. THE MINISTER TOOK THE INITIATIVE IN ARRANGING THIS MEETING, APPARENTLY IN RESPONSE TO THE EMBASSY'S EARLIER EXPRESSIONS OF INTEREST. OTHER VENEZUELAN OFFICIALS PRESENT WERE VICE MINISTER OF FINANCE LUIS CONFIDENTIAL

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EUSEBIO ALMOGURERA AND AREVALO REYES AND MARIANO GURFINKEL OF THE MINISTRY OF ENERGY AND MINES.

3. THE MINISTER BEGAN BY EXPLAINING THAT HIS MINISTRY IS CURRENTLY DOING EVERYTHING POSSIBLE TO SPEED UP ITS REVIEW OF THE OTHER BACK TAX CLAIMS. A NUMBER OF MINISTRY EXPERTS ARE WORKING ON THIS AND ATTORNEYS FROM OUTSIDE THE MINISTRY ARE ALSO INVOLVED. TURNING TO

THE COMPTROLLER'S CLAIMS, HE SAID THESE ARE NOW IN THE HANDS OF THE TAX COURTS, WHICH ARE PART OF THE JUDICIAL BRANCH, AND THEREFORE THE MINISTRY CANNOT INTERFERE. THE MINISTRY HAS, HOWEVER, OFFERED THE COURTS ALL POSSIBLE ASSISTANCE IN REVIEWING THESE CASES. PARTICULARLY

BECAUSE THESE LATTER CASES ARE SO LARGE, INVOLVING OVER TWO BILLION BOLIVARES (\$500 MILLION), HE SAID THERE WERE TWO FACTORS THE GOV HAD TO KEEP IN MIND. FIRST, HE SAID, VENEZUELA HAS A COMPLETELY FREE PRESS WHICH IS ALMOST CERTAIN TO PICK UP ANY INVOLVEMENT BY THE EXECUTIVE IN THIS CASE. SECOND, THE COUNTRY IS NOW ENTERING AN ELECTION YEAR, AND THEREFORE THIS ISSUE HAS BECOME PARTICULARLY SENSITIVE.

4. THE AMBASSADOR EXPLAINED THAT THESE FACTORS WERE WELL UNDERSTOOD BY THE USG, AND IN FACT THIS WAS ONE REASON FOR OUR GREAT CONCERN. DRAWING ON REF A, HE SAID THE US LOOKS TO A PROMPT AND EQUITABLE SETTLEMENT OF THESE ISSUES IN A MANNER ACCEPTABLE TO ALL PARTIES. NOW, TWO YEARS AFTER NATIONALIZATION AND ON THE VERGE OF AN ELECTION CAMPAIGN, THERE IS INCREASING ANXIETY IN THE US THAT NEITHER OF THESE CRITERIA MAY BE MET. TAKING ALL THREE TYPES OF CLAIMS TOGETHER, THEY COULD AMOUNT TO MORE THAN THE TOTAL COMPENSATION. IF, FOR INSTANCE, THE COMPTROLLER'S CLAIMS ARE DECIDED AGAINST THE COMPANIES, THE COMPANIES WILL NOT ACCEPT SUCH A DECISION AND WE COULD NOT EITHER. THIS, HE POINTED OUT, COULD THEN BECOME AN ISSUE BETWEEN THE TWO GOVERNMENTS.

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5. THE MINISTER REPLIED THAT THE GOV ALSO WISHES TO CONCLUDE THESE CASES. HE ASSERTED IT HAS ALWAYS BEEN THE GOV'S INTENT TO COMPENSATE THE COMPANIES; PRESIDENT PEREZ HAS TAKEN A VERY STRONG PUBLIC STAND ON THIS POINT AND HE, THE MINISTER, WOULD BE GOING DIRECTLY ON TO A MEETING WITH THE PRESIDENT WHERE THESE ISSUES WOULD BE THE MAJOR TOPIC OF DISCUSSION. SILVA LUONGO REITERATED THAT BOTH THE MINISTRIES OF FINANCE AND OF ENERGY WERE DOING EVERYTHING POSSIBLE TO SETTLE THE ISSUES (MISCELLANEOUS TAX CLAIMS AND ASSET EVALUATIONS) WHICH ARE UNDER THEIR RESPECTIVE JURISDICTIONS.

THE COMPTROLLER'S CLAIMS, HOWEVER, ARE IN THE COURTS. THE EXECUTIVE THEREFORE CANNOT INTERFERE, AND IN AN ELECTION YEAR, THE TAX COURT JUDGES MAY BE PARTICULARLY UNWILLING TO ANNOUNCE A DECISION ON SUCH A SENSITIVE SUBJECT. HE ALSO COMMENTED THAT IF THE SITUATION WERE REVERSED AND THE US WERE STRUGGLING WITH A CASE OF THIS MAGNITUDE, IT WOULD PROBABLY STILL BE IN THE US COURTS AND THE USG WOULD BE EXPLAINING THE SITUATION IN MUCH THE SAME WAY.

6. RESPONDING TO THE AMBASSADOR'S SUGGESTION THAT THE EXECUTIVE, POSSIBLY THROUGH THE ATTORNEY GENERAL, MIGHT ADVISE THE COURTS OF ITS OPINION ON THE VALIDITY OF THE COMPTROLLER'S CLAIM, THE MINISTER INSISTED THIS WAS NOT POSSIBLE UNDER VENEZUELAN LAW, AT LEAST WHILE THE CASE IS PENDING BEFORE THE TAX

COURTS. ONCE THE CASE REACHES THE SUPREME COURT, HE SAID IT MAY BE POSSIBLE, JUST POSSIBLE, FOR THE EXECUTIVE TO EXPRESS ITS VIEWS, BUT HEADED THIS COULD ONLY BE DONE BY THE PRESIDENT HIMSELF IN AN INFORMAL TALK WITH THE PRESIDENT OF THE SUPREME COURT, AND WOULD BE A VERY DELICATE MATTER.

7. COMMENT. MINISTER SILVA LUONGO APPEARED VERY NERVOUS AND ILL AT EASE THROUGHOUT THE MEETING. IN PART THIS MAY BE DUE TO HIS PERSONALITY AND TO HIS PROBLEMS ON OTHER FRONTS, AS HE HAS ALREADY BEEN THE SUBJECT OF A NUMBER OF EMBARRASSING CONTROVERSIES ON THE BUDGET, FOREIGN BORROWING, ETC. THE MOST ENCOURAGING ASPECT OF THE MEETING IS THAT IT TOOK PLACE AT ALL AND THAT IT WAS ARRANGED AT THE MINISTER'S INITIATIVE; HIS PREDECESSOR WAS UNAPPROACHABLE ON THIS SUBJECT. WE TAKE THIS AS AN INDICATION OF CONFIDENTIAL

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THE GOV'S REALIZATION OF OUR INCREASINGLY HIGHER LEVEL OF CONCERN.
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